

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

PHH Mortgage Corporation,	)	
	)	C/A No. 2:12-2916-MBS
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
John G. Singletary,	)	
	)	
Defendant.	)	
_____	)	

On February 19, 2009, Plaintiff PHH Mortgage Corporation filed a foreclosure action against Carla C. Singletary a/k/a Carla Howard and John G. Singletary, Jr. in the Court of Common Pleas for Charleston County, South Carolina. Defendant John G. Singletary, proceeding pro se, filed a notice of removal on October 10, 2012. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pretrial handling.

Plaintiff filed a motion to remand on November 15, 2012, noting that Defendant was served with the state court complaint on February 20, 2009. Therefore, Defendant's filing of the notice of removal, over three years later, was untimely under 28 U.S.C. § 1446(b)(1). On December 7, 2012, the Magistrate Judge filed a Report and Recommendation in which she found that (1) Plaintiff's notice of removal was untimely filed; and (2) the court lacks both diversity and federal question jurisdiction. Accordingly, the Magistrate Judge recommended that the case be remanded to state court. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole

or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. The complaint is remanded to the Court of Common Pleas for Charleston County, South Carolina.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour

Chief United States District Judge

Columbia, South Carolina

January 3, 2013